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SERVICE DATE - OCTOBER 25, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-268 (Sub-No. 10X)

PORTLAND TERMINAL COMPANY--ABANDONMENT
EXEMPTION--IN CUMBERLAND COUNTY, ME

Decided: October 24, 2000

The Portland Terminal Company (PT) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances to abandon an approximately 2.049-mile line of railroad on the Union Branch between milepost 0.00 and milepost 2.049, in Portland, Cumberland County, ME. Notice of the exemption was served and published in the Federal Register on August 28, 1997 (62 FR 45697). The August 28 notice stated that, if consummation has not been effected by PT's filing of a notice of consummation by August 28, 1998, the authority to abandon would automatically expire.

On September 28, 2000, PT and the State of Maine, Department of Transportation (MDOT), jointly filed a petition for waiver or, alternatively, for an extension of the 1-year time limit for PT to file its notice of consummation. PT did not file its notice of consummation by the August 28, 1998 due date and PT and MDOT are asking the Board to accept the notice now. On October 4, 2000, PT filed such a notice, which stated that PT had consummated the abandonment of the line, effective September 28, 2000. PT maintains that, between September 27, 1997, and August 28, 1998, it took affirmative steps to signify that it intended to remove the Union Branch from the interstate rail network, including salvaging track and ties, and discontinuing service over the line. PT states that it could not fully consummate the abandonment until after March 26, 1998, because of an outstanding public use condition, and that it failed to file the required notice after that date and before August 28, 1998, due to an administrative oversight.

PT further states that it began negotiations with MDOT in the Spring of 2000, regarding conveyance of the line for possible institution of rail passenger service over a portion of the Union Branch and for the development of the remainder for use as a recreational park by the City of Portland. PT had evidently proposed that conveyance take place on September 29, 2000, until it discovered that the abandonment authority had been scheduled to expire on August 28, 1998, in the absence of PT's filing of its notice of abandonment consummation by that date. PT states that, because of its oversight, the conveyance of the right-of-way to MDOT could be delayed if PT must reapply for abandonment authority. MDOT and PT state that they are not aware of any parties, including potential shippers, who have an interest in this line and that neither is aware of any interest that would benefit from the requirement that PT refile for authority now.

Under the circumstances, the alternative request for an extension of time for PT to file its notice of consummation will be granted. While PT's notice of consummation will therefore be accepted under the unique circumstances described in this decision, neither PT nor any other rail carrier should count on the Board's granting similar extension requests in the future or on the Board's accepting late-filed notices of consummation.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request for an extension of the time to file is granted and PT's notice of consummation is accepted.
2. The decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary